

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JASON GARIBALDI,

Plaintiff,

ORDER

05-CV-6075L

v.

ANIXTER, INC.,

Defendant.

I have reviewed the correspondence between the parties of August 7 and August 14, 2006. I have also reviewed the docket sheet and the pleadings that have been filed.

Serious discussions concerning settlement are always appropriate since it eliminates risk to both sides. Mediation is also a very useful vehicle to reach settlement. In my experience, it is also true that once a party expends considerable expenses in litigation, the settlement offer is reduced accordingly.


Based on the tenor of the letters, especially Mr. Garibaldi's, it does not appear that settlement is likely at this time. It does not appear that Mr. Garibaldi is interested in settling unless defendant agrees to his rather high demands.

This Court could participate in settlement or could ask one of the Magistrate Judges to do so, but I am not convinced that that would be time well spent in light of the above. I think the best

course to move this case is to proceed with Mr. Harris's suggestion. Anixter is granted leave to file a partial summary judgment motion limited to plaintiff's negligence claim. That motion should be filed before September 29, 2006. I will also extend the deadline for filing other dispositive motions until 90 days after the Court rules on the partial summary judgment motion.

It would be helpful if plaintiff obtained counsel. There are scores of attorneys in this district that take employment cases. Plaintiff has made repeated requests for this Court to appoint counsel, but I see no need to do so. Plaintiff needs to demonstrate the efforts he has taken to obtain counsel. Plaintiff should also consider whether his difficulty in obtaining counsel is some indication that the contacted attorneys are not overly impressed with his case.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
September 5, 2006.